

Introduced by Senator Ducheny

February 19, 2010

An act to amend Section 107.4 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1250, as introduced, Ducheny. Taxation: military housing.

Existing property tax law requires that all property subject to tax be assessed at its full value, and includes certain possessory interests among those property interests that are subject to tax. Existing property tax law defines a taxable possessory interest to be a use that is independent, durable, and exclusive. Existing property tax law specifies that, for purposes of the definition of a taxable possessory interest, a possession or use is not independent if it is pursuant to a contract that includes, but is not limited to, a long-term lease for the private construction, renovation, rehabilitation, replacement, management, or maintenance of housing for active duty military personnel and their dependents, if the housing units and the private contractor constructing the housing meet specified criteria.

This bill would, for a contract entered into on or after January 1, 2005, delete the requirement that the housing be for military personnel and their dependents, and instead specify that the housing be for military personnel or their dependents, or both.

This bill would make a legislative finding and declaration relating to the public purpose served by the bill.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

By requiring county officials to apply the property tax relief provided by this bill retroactively, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 107.4 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 107.4. For purposes of paragraph (1) of subdivision (a) of
- 4 Section 107, there is no independent possession or use of land or
- 5 improvements if that possession or use is pursuant to a contract
- 6 that includes, but is not limited to, a long-term lease, for the private
- 7 construction, renovation, rehabilitation, replacement, management,
- 8 or maintenance of housing for active duty military personnel ~~and~~
- 9 ~~or their dependents, or both~~, if all of the following criteria are met:
- 10 (a) The military ~~family~~ housing constructed and managed by
- 11 private contractor is situated on a military facility under military
- 12 control, and the construction of that housing is performed under
- 13 military guidelines in the same manner as construction that is
- 14 performed by the military.
- 15 (b) All services normally provided by a municipality are required
- 16 to be purchased from the military facility or a provider designated
- 17 by the military.
- 18 (c) The private contractor is not given the right and ability to
- 19 exercise any significant authority and control over the management
- 20 or operation of the military ~~family~~ housing, separate and apart
- 21 from the rules and regulations of the military.

1 (d) The number of units, the number of bedrooms per unit, and
2 the unit mix are set by the military, and may not be changed by
3 the contractor without prior approval by the military.

4 (e) Tenants are designated by a military housing agency.

5 (f) Financing for the project is subject to the approval of the
6 military in its sole discretion.

7 (g) Rents charged to military personnel or their dependents are
8 set by the military.

9 (h) The military controls the distribution of revenues from the
10 project to the private contractor, and the private contractor is
11 allowed only a predetermined profit or fee for constructing the
12 military-family housing.

13 (i) Evictions from the housing units are subject to the military
14 justice system.

15 (j) The military prescribes rules and regulations governing the
16 use and occupancy of the property.

17 (k) The military has the authority to remove or bar persons from
18 the property.

19 (l) The military may impose access restrictions on the contractor
20 and its tenants.

21 (m) Any reduction or, if that amount is unknown, the private
22 contractor's reasonable estimate of savings, in property taxes on
23 leased property used for military housing under the Military
24 Housing Privatization Initiative (10 U.S.C. Sec. 2871 and following
25 *et seq.*) shall inure solely to the benefit of the residents of the
26 military housing through improvements, such as a child care center
27 provided by the private contractor.

28 (n) The military-family housing is constructed, renovated,
29 rehabilitated, remodeled, replaced, or managed under the Military
30 Housing Privatization Initiative, or any successor to that law.

31 (o) For purposes of this section, "military facility under military
32 control" means a military base that restricts public access to the
33 military base.

34 (p) *The amendments made to this section by the act adding this*
35 *subdivision and the property tax relief provided by this section*
36 *shall apply retroactively to any housing project where the contract*
37 *for the possession or use of land or improvements was entered*
38 *into on or after January 1, 2005.*

39 SEC. 2. The Legislature finds and declares that Section 1 of
40 this act fulfills a statewide public purpose because of the following:

1 This act provides necessary property tax relief to contractors
2 who entered into a contract with the military on or after January
3 1, 2005, for the possession or use of land or improvements for
4 housing projects for military personnel only, so that these
5 contractors can provide affordable housing to military personnel.

6 SEC. 3. Notwithstanding Section 2229 of the Revenue and
7 Taxation Code, no appropriation is made by this act and the state
8 shall not reimburse any local agency for any property tax revenues
9 lost by it pursuant to this act.

10 SEC. 4. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.